

BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, D.C. 20268-0001

NOTICE OF MARKET-DOMINANT PRICE )  
ADJUSTMENT )

Docket No. R2013-10

**COMMENTS OF  
ALLIANCE OF NONPROFIT MAILERS  
ON USPS RESPONSE TO  
CHAIRMAN'S INFORMATION REQUEST NO. 5, QUESTION 4**

**(October 31, 2013)**

The Alliance of Nonprofit Mailers ("ANM") respectfully submits these comments on the October 30 response of the Postal Service to Chairman's Information Request No. 5, Question 4 (filed October 22, 2013). The question was prompted by the disparity between the worksharing discounts proposed in this docket for the commercial and nonprofit categories of automation 5-digit Standard Mail flats: for the commercial category, the Postal Service has proposed a discount of 9.2 cents; for the nonprofit category, the Postal Service has proposed a discount of only 9.0 cents. The Postal Service's explanation for not making the two discounts equal—that a deeper discount would cause the passthrough to "increase even further above 100 percent" (Request at 47)—is incoherent: the same rationale applies equally to the commercial discount. Both sets of cost avoidances are based on the same data: the Postal Service stopped collecting separate cost avoidance data for commercial and nonprofit mail several years ago.

As the Commission undoubtedly recalls, Postal Service proposals of similarly unjustified differences between the commercial and nonprofit worksharing discounts proposed for Standard Mail in the last CPI-based rate case, Docket No. R2013-1, led to litigation in the D.C. Circuit that was settled only after the Postal Service agreed that its future rate filings would comply with 39 U.S.C. § 403(c) and *National Easter Seal Society v. USPS*, 656 F.2d 754 (D.C. Cir. 1981). See Annual Compliance Determination Report FY 2012 (March 28, 2013) at 24-25; *Alliance of Nonprofit Mailers v. PRC and USPS*, No. 13-1006 (D.C. Cir., April 16, 2013) (order dismissing petition for review on ANM's motion).

CHIR 5, Question 4, prompted by the reappearance of similar discrimination in the current rate case, asked the Postal Service to provide some rational justification for the disparate treatment:

The Postal Service stated that it did not align the commercial and nonprofit discounts for automation 5-digit flats because it did not want to increase the nonprofit passthrough further above 100 percent. [Request] at 47. The Postal Service has proposed to increase the commercial automation 5-digit flats discount from 8.7 cents to 9.2 cents. Please explain why it was not feasible to increase commercial discount by less to align with the lower nonprofit discount of 9.0 cents.

The Postal Service has responded to the question, however, by seizing upon a mistake in the Commission's wording to avoid answering the question:

Pursuant to Commission Order No. 1573 (Docket No. R2013-1), which approved the revised workshare discounts submitted in United States Postal Service Response to Order No. 1541, filed on November 26, 2012, the commercial automation 5-digit flats discount is 9.3 cents. As explained in its Notice of Market Dominant Price Adjustment, filed on September 26, 2013, the Postal Service is proposing to decrease the commercial discount from 9.3 cents to 9.2 cents. Since the Postal Service

is not increasing the commercial automation 5-digit flats discount, it is not able to respond to the Commission's question.

The Postal Service's non-answer answer leaves the discrimination against nonprofit mailers unsupported by any principled justification. ANM asks the Commission to eliminate the discrimination, and do so in this proceeding.

Respectfully submitted,

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